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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,231	07/02/2003	Keith FitzPatrick	930036-2005	4976
20999	7590	04/06/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			HUG, ERIC J	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,231		<b>Applicant(s)</b> FITZPATRICK, KEITH	
	<b>Examiner</b> Eric Hug		<b>Art Unit</b> 1731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 02 July 2003.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-35 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_

4) ☐ Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 4, 6-8, 10, 14, 15, 18-20, 22, 24-26, 27, 31, 32, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodson (US 6,294,485).

Hodson discloses a papermakers dryer fabric comprising a base substrate that is partially or fully impregnated with resin so as to yield a substrate having a substantially impermeable and smooth surface on the paper carrying side of the fabric. The base substrate may be woven or nonwoven or a combination of woven and nonwoven materials. Suitable nonwoven materials include knitted fabrics, among several types. The base structure may have a single layer or multiple layers. Reinforcement yarns (monofilament or multifilament) may also be incorporated into the fabric belt. These further load-bearing yarns may lie on top of, underneath or in the middle (i.e. between two membrane layers) of the membrane composite, or in any combination thereof. Furthermore a plurality of reinforcing yarns may be incorporated into the fabric. The resin may be cast as one or more layers from one or both faces of the belt. The resin may be one

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material or a combination of materials. The dryer fabric is suitable as a long nip press belt (column 4, line 20). It appears that an arrangement of multiple base layers plus reinforcement yarns is equivalently the claimed combination of one or more reinforcing layers and a flow-inhibiting layer, particularly in view that the resin may be cast from both sides of the belt.

2. Claims 1, 2, 4, 6-20, 22, and 24-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Davenport et al (EP 0 960 975).

Davenport discloses a long nip press belt comprising a base substrate, a layer of staple fiber batt attached to one of both sides of the base, and polymeric resin impregnating one or both sides of the fiber/base composite structure. The structure provides for control of depth of penetration of the resin. The base structure can be of one or more layers of the types given in paragraphs [0018] and [0019], including nonwoven, mesh, and knit structures. The base may be a spiral wound fabric. A first and second resin may be used for impregnation. All other claimed materials, structures, and features are disclosed in Davenport.

3. Claim 1, 2, 4, 6-11, 15-20, 22, 24-28, and 32-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Davenport (US 6,718,896).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived

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from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Davenport discloses a fabric for making a flexible fluid containment vessel comprising at least two layers of reinforcing material joined together by warp knitting or stitch bonding and at least one scrim layer. The fabric also includes a coating on one or both sides of the fabrics to render or both to render the fabric fluid impervious. The fabric reads on the claimed laminated substrate/base structure and method of making. All other claimed materials or structural elements are disclosed in Davenport.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport (US 6,718,896) in view of Williams (US 3,998,986).

The fabric of Davenport has been described above. Davenport does not disclose a matrix of yarn loops above the surface of the substrate to serve as bonding points for the resin coating. Williams discloses a belt comprising one or more stitch-bonded nonwoven fabrics impregnated with a polymeric or rubber material. The stitching is described in column 3. Alternative ways of stitching are shown in Figures 1 and 2. Stitching may result in the formation of loops on the surfaces of the fabrics that are exposed to the impregnating material. Such stitching loops

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provide for sufficient impregnation of material while also providing for the necessary strength and stability of the belt. It would have been obvious to one skilled in the art to further provide Davenport with a matrix of yarn loops resulting from the stitching as disclosed by Williams for the same purposes.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 6, 7, and 17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 9, 13, and 14 of U.S. Patent No. 6,718,896. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed method steps are the same as those of the method of 6,718,896, and there is no structural difference between the laminated substrate/base structure of the present invention and the fabric of 6,718,896 formed by the two methods.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burnett et al (US 4,154,335) discloses a belt comprising a woven scrim, batt layers attached on both sides, and a polymeric elastomer impregnate.

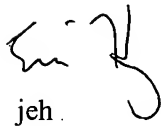
Halker (US 4,948,658) discloses a layer of material useful for making a shoe press belt, the material comprising individual longitudinal threads and individual transverse binding threads, wherein the longitudinal threads consist each of a core filament 2 made up of several monofilaments and of at least one loop thread 3.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 571 272-1192. The examiner can normally be reached on Monday through Friday, 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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